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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,894	07/26/2001	Jon A. Brewster	10006968-1	8647

7590 08/08/2006

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

POKRZYWA, JOSEPH R

ART UNIT PAPER NUMBER

2625

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/916,894	Applicant(s) BREWSTER ET AL.	
	Examiner Joseph R. Pokrzywa	Art Unit 2625	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

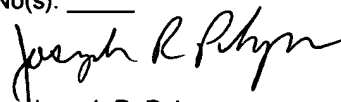
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 9-11, 21 and 22.
 Claim(s) objected to: 7, 8 and 17-19.
 Claim(s) rejected: 1-6, 12-16 and 20.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.


 Joseph R. Pokrzywa
 Primary Examiner
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DETAILED ACTION

Response to Amendment

1. Applicant's amendment was received on 7/3/06, and will be entered upon filing an appeal. As stated in the Office action dated 6/1/06, claims 1-22 are pending, with claims 1-6, 12-16, and 20 rejected, claims 7, 8, and 17-19 objected, and claims 9-11, 21, and 22 allowed.

Response to Arguments

2. Applicant's arguments filed 7/3/06 have been fully considered but they are not persuasive.

3. In response to applicant's arguments regarding the rejection of claim 1, which was cited in the Office action dated 6/1/06, as being anticipated by Trosterud (U.S. Patent Number 6,322,262), whereby applicant argues on pages 11 and 12 that Trosterud fails to teach of a printing mechanism for printing copies of a publication before copies are requested by potential customers so that after a copy of the printed publication is requested by a customer, the customer can receive the copy of the printed publication without having to wait for the printing mechanism to print the copy of the publication. While the examiner understands applicant's arguments, as the claims are currently written, one can reasonably interpret the reference of Trosterud as anticipating the claim. First, the vending machine prints copies of the publication for numerous readers, as read in column 4, lines 17-51. Thus, copies are printed (for other customers) by the printing mechanism before copies are requested by new potential customers. Continuing, Trosterud states in column 3, lines 1-4 that in a previous invention, "the customer must wait

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three to five minutes for the print-out of the desired information, whilst with the present invention it will only take seconds.” Further, in column 5, lines 35-41, Trosterud states that “All rasterizing, warming up and so forth should have been carried out before the last part of the printing process starts so that the shortest time possible passes from the purchaser choosing a desired publication to it being ready-printed.” Thus, the customer does not have to wait the three to five minutes for printing, as the prior art systems require. While this “without having to wait” time may be different than the current invention, the customer of Trosterud’s invention still can “receive a copy of the printed publication without having to wait for the printing mechanism to print the copy of the publication” after a copy of the printed publication is requested, as the claim is currently worded.

4. Continuing, in response to applicant’s arguments which state on pages 12-13 that Trosterud fails to teach of monitoring activity level around a physical location in order to detect proximity of potential customers, wherein timing and number of copies of the publication printed by the printing mechanism are based on the activity level detected by the response system, wherein an increased detected activity level results in an increased number of copies of the publication being printed. The examiner notes that Trosterud states in column 4, lines 39-43 that “the vending machines on-line count the number of copies sold”. Further, in column 5, lines 56-65, Trosterud states that “The vending machine also registers the number of printed copies, as well as the time of printing. This data is transmitted continuously to the editorial office, and processed in a statistics program which can show the total number of printed copies at any time, optionally in a geographical breakdown, if so desired, statistics with respect to the times of the having the most traffic for all vending machines in the network or per vending machine”. Thus,

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the on-line count of the number of copies printed and sold can be interpreted as the “monitored activity level around a physical location of the publication delivery system”. This data is used to detect proximity of potential customers, as the statistics amassed allow the editorial office to determine the number of potential customers for advertisers, so that the publication “will reach a guaranteed number of readers”, as read in column 4, lines 39-51. Further, as read in column 4, lines 43-46, Trosterud states that “When a desired number of the advertisement have been printed, it is automatically deleted and replaced by another advertisement”. Thus, the timing and number of copies printed is based on the monitored activity level, being interpreted as the print count. Also, since the detected activity level is interpreted as the print count, when there is an increased detected activity level, there is an increased number of copies that are being printed.

5. Therefore, the rejection of independent **claim 1**, as cited in the Office action dated 6/1/06 under 35 U.S.C.102(e) as being anticipated by Trosterud, is maintained. Similarly, for the same reasons discussed above, the rejection of independent **claim 12**, as cited in the Office action dated 6/1/06 under 35 U.S.C.102(e) as being anticipated by Trosterud, is also maintained.

Conclusion

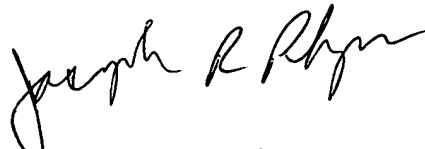
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (571) 272-7410. The examiner can normally be reached on Monday-Friday, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Edward L. Coles can be reached on (571) 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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